

Exhibit 39

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August 7, 2006

In re Merck & Co., Inc. Securities, Derivative & "ERISA"
Litigation (MDL 1658), 05-CV-01151-SRC

Stichting Pensioenfonds ABP v. Merck & Co., Inc., et al.
05-CV-05060-SRC

Dear Judge Chesler:

We represent Merck & Co., Inc. and certain individual defendants in *Stichting Pensioenfonds ABP v. Merck & Co., Inc., et al.* (the "ABP Action"). The ABP Action is a securities action relating to VIOXX® and, as such, is part of *In re Merck & Co., Inc. Securities, Derivative & "ERISA" Litigation* (MDL 1658), pursuant to Paragraph 1 of this Court's Pre-Trial Order No. 1, dated May 5, 2005, and filed May 6, 2005, in MDL 1658. Because the ABP Action is not a class action, it is not part of the Consolidated Securities Action.

On August 1, 2006, an entry appeared on the ABP Action docket, requesting that the parties to the ABP Action appear for a settlement conference on August 16, 2006. Because this Court's December 28, 2005 Order effectively stayed the ABP Action pending resolution of the defendants' motion to dismiss the Consolidated Securities Action, we believe this docket entry may be in error and request the Court's

clarification. We respectfully submit that a settlement conference would be premature at this time.

Respectfully,



Robert H. Baron

Honorable Stanley R. Chesler, U.S.D.J.
United States District Court for the District of New Jersey
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